



Federal Law Enforcement Officers Association

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SUMMARY STATEMENT BY FLEOA GENERAL COUNSEL TO THE HOUSE
SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENT
RELATIONS CONCERNING REVISIONS TO THE FEDERAL TORT CLAIMS
ACT PROPOSED IN H.R. 595.

FLEOA supports wholeheartedly the "qualified immunity" provided in H.R. 595 and believes the federal government should serve as the defendant when enforcement officers become embroiled in lawsuits arising out of the "scope of their office or employment." The bill with minor additions will go a long way to overcome the unintended side-effects of Bivens-type suits.

Since 1971, thousands of Bivens-type suits have resulted, to the best of our knowledge, in only 13 judgments against the U.S. government. But the cost of dealing with these and the anguish caused have been incalculable.

In addition to those revisions already in H.R. 595, FLEOA believes time delays and intervention in state felony crimes by federal officers must be covered directly in the amended Federal Tort Claims Act. Further, agencies should be required to provide enforcement personnel with materials relied upon in making settlement determinations and used as the basis for settlement recommendation.

We feel the following language should be added to 28 USC 2679 (d)(3), page 3, line 19 and 28 USC 2699 (d) (3), page 16, line 16.

"...The certification of the Attorney General shall conclusively establish scope of office or employment for purposes of such removal and shall be made within 30 days of the time the employee's agency was notified of the action. Failure to so notify shall result in automatic certification."

In addition, we feel 28 USC 2700, page 18, line 14 should have a new sentence added to it. The sentence should read:

" In addition, the employee shall be entitled to access to all of the materials relied upon by the Attorney General or the agency in making a settlement as well as the basis on which the settlement was recommended."

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